

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

VINCENT DANIEL HOPPER AKA  
ANTOLIN ANDREW MARKS,

Plaintiff,

v.

JOHN DOE MYERS RECREATIONAL  
COACH NORTHWEST DETENTION  
CENTER *et al.*,

Defendants.

Case No. C05-5680RBL

ORDER GRANTING  
PLAINTIFF'S MOTION TO  
TAKE JUDICIAL NOTICE  
AND STRIKING  
OTHER FILINGS

This Bivens action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. The only remaining defendant is Michael Melendez, the federal officer in charge of the facility. He is sued in his official capacity. The only remaining issue is the constitutionality of the telephone system at the facility where plaintiff is housed.

On July 6, 2007, the court stayed this action (Dkt. # 156). The only pleading the court indicated should be filed was defendant's reply to plaintiff's response in opposition to the motion for summary judgment (Dkt. # 156). Since the filing of that order, and in disregard of that order, plaintiff has filed four

1 pleadings. These pleadings include:

- 2 1. An additional response “showing of undisputed facts” (Dkt. # 158).
- 3 2. A supplemental response “showing in opposition to summary judgment” (Dkt. # 159)
- 4 3. A motion to take judicial notice of a national report regarding telephone access for
- 5 detainees (Dkt. # 160).
- 6 4. A “response” to defendants reply regarding summary judgment (Dkt. # 163).

7 The court found it necessary to stay this action because the plaintiff’s motion practice was  
8 preventing the court from consideration of a properly filed motion for summary judgment. Plaintiff has not  
9 followed the court’s directions.

10 The Federal Rules of Civil Procedure and the Local Rules of this court are designed to bring a  
11 logical flow to the proceedings. The rules ensure a balanced and fair opportunity to all litigants. **Plaintiff**  
12 **is warned that any future failure on his part to follow the rules of this court will result in monetary**  
13 **sanctions and may result in dismissal of actions or other sanctions.**

14 A brief review of the pleadings is necessary. On May 24, 2007, the remaining defendant filed a  
15 motion for summary judgment on the sole remaining issue in this case (Dkt. # 141). Plaintiff has filed a  
16 number of motions in an attempt to reopen discovery and delay consideration of the summary judgment  
17 motion (Dkt. # 144 to 150). When plaintiff responded to defendant’s summary judgment motion, the  
18 response was 43 pages long. The Local Rules allow for a 24 page response. See, Local Rule 7 (e)(3).  
19 Recognizing that his pleading was over length, plaintiff changed the font on his pleading to smaller type in  
20 violation of Local Rule 10 (e) and resubmitted the pleading which was then 24 pages of smaller type (Dkt.  
21 # 152).

22 In further violation of the Local Rules regarding pleadings, plaintiff has filed a “showing of  
23 undisputed facts” (Dkt. # 158). This document adds another 15 pages to plaintiff’s already over length  
24 response and is not a pleading allowed pursuant to Local Rule 7(b). Plaintiff then filed a “supplemental  
25 pleading ” (Dkt. # 159), which again violates Local Rule 7 (b). In this document plaintiff alleges some of  
26 the information given to him by staff has proven to be false. The pleading is only 4 pages long (Dkt. #  
27 160). Finally plaintiff has filed a response to a reply (Dkt. # 163). The court rules allow for a motion, a  
28 response, and a reply. See, Local Rule 7 (b). No other pleadings are allowed.

1 Plaintiff's failure to follow the rules of this court regarding pleadings will no longer be tolerated.  
2 Plaintiff's motion for judicial notice, Dkt. # 160, is **GRANTED**. Plaintiff's other filings, Dkt. # 158, 159,  
3 and 163 will not be considered by the court or cited to by any party.

4 The clerk's office is directed to send a copy of this order to plaintiff and counsel for defendants.

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6 DATED this 16 day of August, 2007.  
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9 /S/ J. Kelley Arnold  
10 J. Kelley Arnold  
11 United States Magistrate Judge  
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